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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,636	07/11/2003	Ronald P. Lindahn	SIMS-101	4274
	7590 11/01/2004		EXAMINER	
Bruce F. Jacobs P.O. Box 390438 Cambridge, MA 02139			DAHBOUR, FADI H	
			ART UNIT	PAPER NUMBER
			3743	
DATE MAILED: 11/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/617,636	Applicant(s) LINDAHN ET AL.	
	Examiner Fadi H. Dahbour	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Retel.

Retel discloses a device for localized bone manipulation in the pelvic area of the human body, the pelvis having a sacrum, a pair of ilia, and a sacro-iliac joint between the sacrum and each ilium (Figs.1-6), the device comprising a base member having a first arm and a second arm (14 & 15 of Fig.1) disposed in a horizontal plane at an angle of about 30 to 60 degrees to each other (14 & 15 of Fig.1), a first rod member extending from an end of the first arm of the base member, perpendicular thereto about 8 to 12 inches (23 of Fig.1), a second rod member extending from the intersection of the two arms of the base member, perpendicular thereto about 15 to 20 inches in the same direction as the first rod member (24 of Fig.1), wherein the first and second arms are disposed at an angle of about 45 degrees to each other (14 & 15 of Fig.1).

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Troups.

Toups discloses a device for localized bone manipulation in the pelvic area of the human body, the pelvis having a sacrum, a pair of ilia, and a sacro-iliac joint between the sacrum and each ilium (Figs.1-3), the device comprising a base member having a first arm and a second arm (27 & 40 of Figs.2-3) disposed in a horizontal plane at an angle of about 30 to 60 degrees to each other (Fig.3), a first rod member extending from an end of the first arm of the base member, perpendicular thereto about 8 to 12 inches (22 of Figs.2-3), a second rod member extending from the intersection of the two arms of the base member, perpendicular thereto about 15 to 20 inches in the same direction as the first rod member (11 of Figs.2-3), wherein the end of the second arm of the base member is shaped to form a handle (see "handle bar 43" in line 8 of col.2, also see 43 in Figs.2-3), wherein the first and second arms are disposed at an angle of about 45 degrees to each other (27 & 40 of Figs.2-3).

4. Claims 1, 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sayman.

Sayman discloses a device for localized bone manipulation in the pelvic area of the human body, the pelvis having a sacrum, a pair of ilia, and a sacro-iliac joint between the sacrum and each ilium (Figs.1-4), the device comprising a base member having a first arm and a second arm (11 & 12 of Fig.1) disposed in a horizontal plane at an angle of about 30 to 60 degrees to each other (11 & 12 of Figs.1-4), a first rod member extending from an end of the first arm of the base member, perpendicular thereto about 8 to 12 inches (13 of Fig.1), a second rod member extending from the intersection of the two arms of the base member, perpendicular thereto about 15 to 20 inches in the same direction as the first rod member (14 of Fig.1), wherein the first and second arms are disposed at an angle of about 45 degrees to each other (11 & 12 of Figs.1-4).

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cameron, Kostich, Shaw, Hajianpour, Schuerch, Frauenberger et al and Abdo are cited to show devices for the human body.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fadi H. Dahbour
Examiner
Art Unit 3743